

**BEFORE THE NEW HAMPSHIRE
RESPIRATORY CARE PRACTITIONERS GOVERNING BOARD
OFFICE OF LICENSED ALLIED HEALTH PROFESSIONALS
CONCORD, NEW HAMPSHIRE**

In The Matter Of:

Docket #10-03

Joseph W. Leo
(Application for Licensure)

**DECISION AND ORDER –
GRANT OF A CONDITIONAL LICENSE**

By the Board: Robert Fishwick, RCP, Chair, Michael Quinlan, RCP, Carl Rod, RCP,
Luann Udell, Public Member, Jeffrey T. Reisert, D.O.

Also present: Traci Webber, Executive Secretary

Appearances: Joseph W. Leo, *pro se*

On December 9, 2010 the New Hampshire Respiratory Care Practitioners Governing Board ("Board") held a hearing in the matter of Joseph W. Leo ("Mr. Leo" or "applicant") pursuant to the Board's "Notice of Hearing, Order to Show Cause". The hearing was held in accordance with RSA 328-F:23, RSA 328-F: 24, RSA 541-A, Ahp 200 and Resp 200. Mr. Leo appeared *pro se*. The purpose of the hearing was for Mr. Leo to show cause why he should be granted a license to practice as a Respiratory Care Practitioner in the State of New Hampshire.

Following a full hearing and after deliberation by the Board, the Board finds and incorporates the Order on Application Denial dated October 14, 2010, to this Order.

It is further noted that Mr. Leo did not deny the allegation that he had been convicted of 6 offenses in the State of Vermont and the State of New Hampshire between 2006 and 2009 as outlined under "Background" in Order on Application Denial dated October 14, 2010.

THEREFORE IT IS ORDERED that Mr. Leo attend counseling sessions at least once a month with a New Hampshire Licensed Alcohol and Drug Counselor ("LADC") pre-approved by this Board to address the underlying issues of his drug and alcohol use. Counseling shall be for a period of at least two (2) years, starting from the effective date of this Decision and Order. The terms of the counseling are as outlined below:

1. The Applicant shall provide the name and curriculum vita of a LADC Counselor to this Board within 30 days of the date of this order for Board approval;
2. Either before or after the approval of the LADC Counselor by this Board, the Applicant shall share a copy of this Decision and Order with the Counselor.
3. The Board approved Counselor shall provide this Board with quarterly reports which shall outline the dates of visits and the Applicant's progress. The first report will be due 90 days from the date this Board approves the Counselor. It is the Applicant's responsibility to ensure these reports are sent to this Board. At the end of the two (2) year period Mr. Leo's counselor shall submit a report to this Board giving his/her professional opinion as to whether or not Mr. Leo is fit to practice Respiratory Care in New Hampshire independent of supervision. It is the Applicant's responsibility to ensure that these reports are sent to the Board.

IT IS FURTHER ORDERED that Mr. Leo work under DIRECT supervision for a period of at least two (2) years.¹ The Board orders the supervision shall be as follows:

1. The Applicant shall provide the Board with a document signed by a New Hampshire licensed Respiratory Care Practitioner ("Supervisor") that states:
 - a. That the Supervisor has read this Decision and Order;
 - b. That the Supervisor agrees to act as Mr. Leo's supervisor;
 - c. That the Supervisor agrees to provide Mr. Leo with direct supervision; and
 - d. That the Supervisor agrees to provide written reports to this Board as outlined in this Decision and Order.

¹ The Board's issuance of a wallet card shall be contingent on the receipt of the Supervisor's document as outlined in this section. The Board recognizes that an Applicant might encounter a time delay from the effective date of this Decision and Order until the date that the Applicant might commence meaningful employment in the practice. Accordingly, the time requirement for this condition starts upon the first day the Applicant is able to practice in accordance with this restriction. However, if the Applicant does not begin practice within eighteen (18) months from the effective date of this Decision and Order, this matter may be returned to the Board for further review consistent with the Board's statutory mandate.

2. The Supervisor shall provide a written report to this Board once each month for the first six months and then quarterly for the remaining 18 months. Each report is due by the 15th of the month. It is the Applicant's responsibility to ensure these reports are sent to this Board; and
3. The report will outline Mr. Leo's job performance and clinical proficiency.

IT IS FURTHER ORDERED that Mr. Leo contract with an independent lab, pre-approved by the Board, to perform random drug and alcohol testing for a period of two years starting from the effective date of this Decision and Order, as outlined below:

1. Testing for both drugs and alcohol to be conducted randomly at least twice a month.
2. The results of these alcohol and drug screens shall be forwarded to the Board on a monthly basis. In the event of a positive screen Mr. Leo shall independently notify the Board within 48 hours;
3. Mr. Leo shall sign any and all necessary releases allowing the testing facility to notify the Board of positive screens within 48 hours; and
4. Both Mr. Leo and the testing facility shall notify the Board of any missed tests.

IT IS FURTHER ORDERED that Mr. Leo will meet with the Board during a regularly scheduled Board meeting approximately one (1) year from the date of this order.

IT IS FURTHER ORDERED that Mr. Leo may petition the Board to remove the conditions and grant him a full unrestricted license once all the conditions stated herein have been complied with.

IT IS FURTHER ORDERED that Mr. Leo shall bear all costs of complying with the terms of this Decision and Order, but he shall be permitted to share such costs with third parties.

IT IS FURTHER ORDERED that the Board may consider Mr. Leo's compliance with the terms and conditions herein in any subsequent proceeding before the Board.

IT IS FURTHER ORDERED, that within fifteen (15) days of the effective date of this Decision and Order, as further defined below, Mr. Leo shall furnish a copy of this Decision and Order to any current or future employers for whom Mr. Leo performs services as a Respiratory Care Practitioner and to any agency or authority which licenses, certifies or credentials

Respiratory Care Practitioners, with which Mr. Leo affiliated. Mr. Leo will continue to provide a copy of this Decision and Order for two (2) years from the date of this order or until Mr. Leo completes all requirements set forth in this Decision and Order whichever is greater.

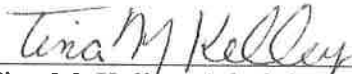
IT IS FURTHER ORDERED that Mr. Leo's breach of any terms and conditions of this Decision and Order shall constitute unprofessional conduct pursuant to RSA 328-F:23, II.

IT IS FURTHER ORDERED that this Decision and Order shall become a permanent part of Mr. Leo's file, which is maintained by the Board as a public document.

IT IS FURTHER ORDERED that this Decision and Order shall take effect as a final Order of the Board on the date it is signed by an authorized representative of the Board.

BY ORDER OF THE BOARD

Date: January 13, 2011



Tina M. Kelley, Administrator
Authorized Representative of the
Respiratory Care Practitioners Governing Board